UNITED STATES PATENT AND TRADEMARK OFFICE

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>20 February 2004</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-17</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-17</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>03/05/2004, 04/18/2005, 08/08/2005</u>.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

2.   Claims 1, 4-6, and 8-9 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Markel et al US Patent 7,213,255 in view of Aharoni et al US Patent

6,014,694 and further in view of Taylor US Patent 6,981,227 and even further in view of

Li et al US Patent 6,807,550 (hereafter referenced as Markel, Aharoni, Taylor and Li).

Regarding claim 1, Markel in column 4, 3-16 discloses a computer 300

comprising an interactive producer that combines the video and interactive content into

an enhanced stream 328 wherein the computer 300 receives the video data, as well as

an HTML object 324 that comprises interactive content stored in the storage device 314

which reads on "A client system for efficiently downloading video content represented

by at least one content file and integrating interactivity with the video content, the client

system comprising a mass storage device". Markel does not disclose a bandwidth

measurement device determining the bandwidth of a network connection over which a

content file is downloaded. Aharoni in column 5, 14-26 discloses a bandwidth

measurement unit for measuring the bandwidth of the network channel over which video

packets are streamed which reads on "a bandwidth measurement device determining

the bandwidth of a network connection over which a content file is downloaded".
Therefore, it would have been obvious to one of ordinary skill in the art at the time the
invention was made to modify Markel as taught by Aharoni in order to efficiently transmit
data in a network with varying bandwidth.

Markel in column 4, 8-10 discloses a receiver 300 for receiving and storing video
data and interactive content or HTML object 324 in storage 314 which reads on "a
download manager retrieving and storing in the mass storage device a portion of a first
file comprising video content and a second file comprising an interactive element".
However, Markel does not disclose, the size of the portion of the first file responsive to
the bandwidth determination made by the bandwidth measurement device. Aharoni in
column 16, 34-39 discloses a sender that increases the bit rate if the network bandwidth
is underutilized or reduces the bit rate if the network bandwidth is exceeded which reads
on "the size of the portion of the first file responsive to the bandwidth determination
made by the bandwidth measurement device". Therefore, it would have been obvious
to one of ordinary skill in the art at the time the invention was made to modify Markel as
taught by Aharoni in order to efficiently manage the network bandwidth.

Markel in column 4, 5-7, 11-13 discloses an interactive TV producer 326 which
presents the combined video data and interactive element from storage 314 wherein the
interactive element and the video are displayed in the same window which reads on "a
presentation manager (i) retrieving the portion of the first file from mass storage, (ii)
displaying with a standard media player application video content represented by the
portion of the first file, (iii) retrieving the second file from mass storage, and (iv)

displaying with a standard media player application". Markel does not disclose displaying the interactive element semi-transparently over the video content. Taylor in column 7, 32-39 discloses a video 208 and a user interface 210 being displayed simultaneously on the display device 206 wherein the user interface 210 is transparently displayed over the video stream 208 which reads on "displaying the interactive element semi-transparently over the video content". Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Markel as taught by Taylor in order to allow user to interact with the user interface without obscuring the video while watching.

Markel in column 4, 8-10 discloses a receiver 300 for receiving and storing video data and interactive content or HTML object 324 in storage 314 which reads on "download manger". Markel does not disclose wherein the download manager retrieves the remainder of the first file in response to the presentation manager displaying the retrieved portion of the first file. Li in column 1, 37-44 discloses downloading and compressing initial portions of a media content and buffering locally on a client machine to be played and subsequently buffering the remaining portions of the media while the initial portion is being played which reads on "wherein the download manager retrieves the remainder of the first file in response to the presentation manager displaying the retrieved portion of the first file". Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Markel as taught by Li in order to provide a smooth media presentation independent of streaming bandwidth.

Regarding claim 4, Markel, Taylor and Li do not disclose the client system, wherein the bandwidth measurement device comprises a timer. Aharoni in column 13, 15-18 discloses a bandwidth measuring scheme that involves sending packets in the network and measuring the rate of reception to the clients which reads on "the client system, wherein the bandwidth measurement device comprises a timer". Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Markel as taught by Aharoni in order to efficiently allocate the channel bit rate.

Regarding claim 5, Markel, Taylor and Li do not disclose the client system wherein the download manager and the bandwidth measurement device comprise a single process. Aharoni in column 13, 15-18 discloses single bandwidth measuring scheme that involves sending packets in the network and measuring the rate of reception to the clients which reads on "the client system wherein the download manager and the bandwidth measurement device comprise a single process". Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Markel as taught by Aharoni in order to efficiently allocate the channel bit rate.

Regarding claim 6, Markel in column 7, 41-43 discloses a browser used to displaying enhanced video content on client device which reads on "the client system wherein the download manager comprises a thread process". Note that HTML code is executed sequentially or as a thread.

Regarding claim 8, Markel in column 4, 7-8 discloses an interactive TV produce 326 comprising a software program which reads on "the client system wherein the presentation manager comprises a threaded process". Software code runs in a sequence or by threading.

Regarding claim 9, Markel in figure 3 discloses a window media layer 320 that combines the interactive element and the video data to be produced on the computer monitor 302 by the producer 326 which reads on "the client system, wherein the presentation manager comprises a Windows Media Player application".

3.   Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Markel in view of Aharoni, in view of Taylor, in view of Li, and further in view of Baker et al US Patent 5,583,561 (hereafter referenced as Baker).

Regarding claim 2, Markel in 4, 50-52 discloses a storage device 329 where the video and interactive elements are stored in the client system 300. Markel, Aharoni, Taylor and Li do not disclose the client system, wherein the mass storage device comprises a redundant array of independent disks. Baker in column 6, 41-42 discloses the implementation of mass storage consisting of up to 4000 disks which reads on "the client system, wherein the mass storage device comprises a redundant array of independent disks". Because both Markel and Baker teach storage devices, it would have been obvious to one of ordinary skill in the art to substitute one storage device for the other to achieve the predictable result of data storage.

Regarding claim 3, Markel in column 4, 50-52 discloses a storage device 329 where the video and interactive elements are stored in the client system 300. Markel,

Aharoni, Taylor, and Li do not disclose the client system wherein the mass storage device comprises a network storage solution. Baker in column 6, 36-41 discloses a mass storage in a server architecture serving as main storage for a video library which reads on "the client system wherein the mass storage device comprises a network storage solution". Because both Markel and Baker teach storage devices, it would have been obvious to one of ordinary skill in the art to substitute one storage device for the other to achieve the predictable result of data storage.

4.   Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Markel in view of Aharoni, in view of Taylor, in view of Li and further in view of Kato et al US Patent Publication 2003/0140349 (hereafter referenced as Kato).

Regarding claim 7, Markel, Aharoni, Taylor and Li do not the client system wherein the download manager comprises one of the groups consisting of an ActiveX control and a JAVA applet. Kato in 0295, 6-8 discloses that Java Applet and ActiveX control can be embedded in a browser to create a graphic display which reads on "the client system wherein the download manager comprises one of the groups consisting of an ActiveX control and a JAVA applet". Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Markel as taught by Kato in order to platform independent presentation.

5.   Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Markel in view of Taylor and further in view of Li and even further in view of Aharoni.

Regarding claim 11, Markel, Taylor and Li do not disclose, the method, wherein step (b) comprises: (b-a) determining the bandwidth of a network connection over which

the content file is retrieved; and (b-b)terminating retrieval of the content file before the

entire content file is retrieved, the termination responsive to the bandwidth

determination made in step (b-a). Aharoni in column 16, 34-39 a sender that increases

the bit rate if the network bandwidth is underutilized or reduces the bit rate if the network

bandwidth is exceeded which reads on "the method, wherein step (b) comprises: (b-a)

determining the bandwidth of a network connection over which the content file is

retrieved; and (b-b) terminating retrieval of the content file before the entire content file

is retrieved, the termination responsive to the bandwidth determination made in step (b-

a)". Note that terminating retrieval of the content file before the entire content file is

retrieved is perceived as retrieving portions only. Therefore, it would have been obvious

to one of ordinary skill in the art at the time the invention was made to modify Markel as

taught by Aharoni in order to efficiently manage the network bandwidth.

6.   Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Markel

in view of Taylor, further in view of Li, and even further in view of Vigue et al US Patent

Publication 2003/0163702 (hereafter referenced as Vigue).

        Regarding claim 12, Markel, Taylor and Li do not disclose the method wherein

step (a) comprises retrieving from a peer-to-peer network content file representing video

content. Vigue in 0029, 1-4 discloses a peer-to-peer implementation of a computer

network for data sharing which reads on "the method wherein step (a) comprises

retrieving from a peer-to-peer network content file representing video content".

Therefore, it would have been obvious to one of ordinary skill in the art at the time the

invention was made to modify Markel as taught by Vigue in order to provide efficient use of bandwidth.

7.   Claim 10, and 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Markel in view of Taylor and further in view of Li.

Regarding claim 10, Markel in column 4, 8-10 discloses a receiver 300 for receiving and storing video data and interactive content or HTML object 324 in storage 314 which reads on "(a) retrieving a first content file; (b) terminating retrieval of the first content file before the entire content file is retrieved; (c) storing the retrieved portion of the first content file in a mass storage device". Note that terminating retrieval of the content file before the entire content file is retrieved is perceived as retrieving portions only.

Markel in column 4, 5-7, 11-13 discloses an interactive TV producer 326 which presents the combined video data and interactive element from storage 314 wherein the interactive element and the video are displayed on the same screen window which reads on "(d) displaying with a standard media player application content represented by the portion of the first content file (e) retrieving a second file from mass storage representing an interactive element" Markel does not disclose displaying the interactive element semi-transparently over the video content. Taylor in column 7, 32-39 discloses a video 208 and a user interface 210 being displayed simultaneously on display device 206 wherein the user interface 210 is transparently displayed over the video stream 208 which reads on "(f) displaying with a standard media player application semi-transparently over the displayed video content an interactive element represented by

the second file". Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Markel as taught by Taylor in order to allow user to interact with the user interface without obscuring the video while watching and surfing.

Markel does not disclose "(g) retrieving, in response to step (d), the remainder of the first content file. Li in column 1, 37-44 discloses downloading and compressing initial portions of media and buffering locally on a client machine to be played and subsequently buffering the remaining portions of the media while the initial portion is being played which reads on "(g) retrieving, in response to step (d), the remainder of the first content file". Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Markel as taught by Li in order to provide a smooth media presentation independent of streaming bandwidth.

Regarding claim 13, Markel does not disclose the method wherein step (a) comprises retrieving from a multicast network a content file representing video content. Li in figure 5 discloses a data broadcast network 200 which reads on "the method wherein step (a) comprises retrieving from a multicast network a content file representing video content". Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Markel as taught by Li in order to provide fixed bandwidth for individual clients.

Regarding claim 14, Markel does not disclose the method further comprising the step of receiving user input via the displayed interactive element. Taylor in column 4, 61-66 discloses adjusting transparency level interactive element by user input means

which reads on "the method further comprising the step of receiving user input via the displayed interactive element". Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Markel as taught by Taylor in order to provide user with comfortable transparency levels when viewing and surfing at the same time.

Regarding claim 15, Markel does not disclose the method wherein step (d) and step (g) occur substantially concurrently. Li in column 1, 37-44 discloses downloading and compressing initial portions of media and buffering locally on a client machine to be played and subsequently buffering the remaining portions of the media while the initial portion is being played which reads on the method wherein step (d) and step (g) occur substantially concurrently". Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Markel as taught by Li in order to provide a smooth media presentation independent of streaming bandwidth.

Regarding claim 16, Markel in column 4, 5-13 discloses an interactive TV producer 326 as software which presents the combined video data and interactive element from storage 314 which reads on "the method further comprising the step of displaying with a standard media player application content represented by the remainder of the first content file"

Regarding claim 17, Markel in column 4, 8-10 discloses a receiver 300 for receiving and storing video data and interactive content or HTML object 324 in storage 314 which reads on "computer-readable program means for retrieving a first content file; computer-readable program means for terminating retrieval of the first content file

before the entire content file is retrieved; computer-readable program means for storing the retrieved portion of the first content file in a mass storage device".

Markel in column 4, 5-7, 11-13 discloses an interactive TV producer 326 which presents the combined video data and interactive element from storage 314 wherein the interactive element and the video are displayed on the same screen which reads on "computer-readable program means for displaying with a standard media player application content represented by the portion of the first content file; computer-readable program means for retrieving a second file from mass storage representing an interactive element; computer-readable program means for displaying with a standard media player application". Markel does not disclose displaying the interactive element semi-transparently over the video content. Taylor in column 7, 32-39 discloses a video 208 and a user interface 210 being displayed simultaneously on display device 206 wherein the user interface 210 is transparently displayed over the video stream 208 which reads on "displaying semi-transparently over the displayed video content an interactive element represented by the second file". Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Markel as taught by Taylor in order to allow user to interact with the user interface without obscuring the video while watching.

Markel does not disclose computer-readable program means for retrieving the remainder of the first content file. Li in column 1, 37-44 discloses downloading and compressing initial portions of media and buffering locally on a client machine to be played and subsequently buffering the remaining portions of the media while the initial

portion is being played which reads on "computer-readable program means for retrieving the remainder of the first content file". Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Markel as taught by Li in order to provide a smooth media presentation independent of streaming bandwidth.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANTHONY BANTAMOI whose telephone number is (571)270-3581. The examiner can normally be reached on Monday - Friday 8-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Koenig can be reached on (571) 272 7296. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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